


Administrative Office of the Courts

Chief Justice Richard C. Howe
Chairman, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Heather Mackenzie-Campbell, Audit Manager
From:  Brent Johnson, General Counsel
Re: Warrant Enhancement
Date: March 24, 2000

I have reviewed the materials that you have provided me on whether the surcharge should be applied to the warrant enhancement under Rule 4-701. I was, of course, surprised to learn that we did not include the surcharge on the \$70.00 warrant enhancement and we must make certain that the surcharge applies in the future. The warrant enhancement issue has created a lot of confusion and problems, but I am surprised that we are still dealing with this issue more than 8 years after the warrant fee was eliminated.

By way of background, prior to 1992, courts would charge an \$85.00 warrant "fee" whenever a warrant was issued. This fee was not a part of the fine and was allocated to local governments for law enforcement uses. In 1992, the warrant fee was eliminated. At the same time the warrant fee was eliminated, the surcharge statute was amended to ensure that local governments did not lose a significant amount of money by eliminating the fee. In place of the warrant fee, we have created a structure by which the bail on a case is increased when a defendant fails to respond, or a warrant is issued. Because the bail is increased, the resulting fine is also typically increased. In most citation cases, the bail is first increased \$20.00, and then \$50.00, for a total of \$70.00. If the underlying bail was originally \$70.00, and a defendant fails to appear, the bail will be increased to \$140.00. If the bail is subsequently forfeited, or the defendant pays the \$140.00 fine, the surcharge is applied to the entire amount of \$140.00. (This memorandum does not take into account the amount of the surcharge, or whether the offense is one for which a surcharge applies, but only to the question of whether a bail increase is subject to the surcharge.)

Please let me know if you have any questions about this. If we have not been including the surcharge, there may be fiscal implications from changing our policy to ensure that we are in compliance with the law. I will leave those discussions to better minds. As for the accounting manual, I would suggest eliminating the language in paragraph 1(a) that talks about the \$85.00 warrant fee and paragraph 7 which discusses the surcharge. The language is simply too confusing and is no longer relevant.

**The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.**